



Docket No. **3037-4178**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Duane Galensky, et al.

Art unit: 2157

Serial No. : 09/366,351

Examiner: Meky, Moustafa M.

Filed : August 2, 1999

For : WIRELESS MULTIMEDIA PLAYER

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J. C. H.
6-3-03

Commissioner For Patents
Washington, D.C. 20231

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MAY 23 2003

Technology Center 2100

DECLARATION UNDER 37 C.F.R. § 1.131

SIR:

We, Andrew T. Zidel and Duane Galensky, declare and say that:

1. We are the inventors of the subject matter claimed in the above-identified patent application.

2. We make this Declaration to establish conception of the invention claimed in this application in the United States at a date prior to April 16, 1999—the filing date of U.S. Patent No. 6,502,194 to Berman, et al. (“Berman ’194 patent”) that was cited by the Examiner—coupled with due diligence from a period just prior to April 16, 1999 until our subsequent constructive reduction to practice of the claimed invention as a filed U.S. patent application on August 2, 1999.

3. Prior to April 16, 1999, we conceived of the subject matter of the invention claimed in this application. Prior to that date, we worked to prepare an internal memo describing the invention claimed in this application. A copy of our memo is attached as Exhibit 1. The date appearing on our memo is prior to April 16, 1999 and has been masked, as have been portions of

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the memo that are not relevant to issues raised in this Declaration. The memo, which includes two drawings and an attached article, describes and illustrates the concepts of a wireless device that receives files transmitted from a wireless telecommunications network, decodes streamed compressed data and plays the data back to a user in real time. In short, the memo describes and illustrates the invention in sufficiently clear terms and shows our conception in the United States prior to the April 16, 1999 filing date of the Berman '194 patent.

4. The invention claimed in our patent application was reduced to practice no later than on August 2, 1999, when our patent application was filed.

5. From a period prior to April 16, 1999 through August 2, 1999, we were diligent in constructively reducing the invention to practice. During this period, constructive reduction to practice of our claimed invention was active and reasonably continuous.

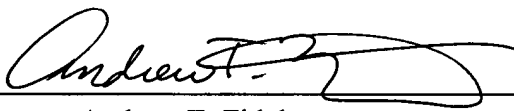
7. On April 2, 1999—prior to the filing date of the Berman '194 patent—our employer instructed outside counsel to prepare a patent application on the claimed invention. To assist in preparing the application in a diligent manner, we met with outside counsel at our offices, spoke with outside counsel over the telephone, and reviewed and provided comments on drafts of the patent application. On June 15, 1999, outside counsel sent a final draft of the application to our in-house counsel for review. Upon completion of this review, our in-house counsel undertook the task of obtaining our signatures on the declaration and assignment papers following our final review of the application. Outside counsel subsequently filed the application in the U.S. Patent & Trademark Office on August 2, 1999.

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8. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated 5/14/2003



Andrew T. Zidel

Dated _____

Duane Galensky

Patent

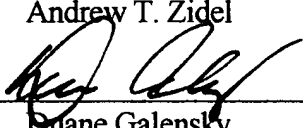
Docket No. 3037-4178

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Dated _____

Dated 5/12/08

Andrew T. Zidel



Duane Galensky

INVENTION SUBMISSION FORM

- ⊙ Title of Invention:
Wireless Personal Stereo Jukebox
- ⊙ Name of Inventors, telephone, address and business unit:
Andrew Zidel,
Duane Galensky.
- ⊙ Name of principal person to work with attorney:
Andrew Zidel
- ⊙ What problem does the invention solve or what purpose does it serve?

The invention is the application of streaming high quality audio information through a wireless network. In this manner, the user has access to a large variety of program material residing on servers in the network, without the need to carry pre-recorded media in the form of CDs, tapes, flash memory cards, etc.

Streaming of media exists over the Internet. A user of a PC typically has a wired connection. The advent of new generations of wireless networks leads to the opportunity for high bandwidth applications. This invention is a system which allows a mobile user to receive near CD quality music over such a wireless network.

Prior art can be shown with Diamond Multimedia Systems device called the Rio (see attached clipping from the New York Times). It is a solid state personal stereo. Digital music is first downloaded from a server connected to the Internet to a user's PC. Next, the music is transferred to the Rio via a cable connection. Finally, a user may listen to the downloaded music. The disadvantage to this is that the user must predetermine the program material they would like to hear, and arrange to download and store it into the device prior to its use.

A second piece of prior art (noted in the attached clipping from USA Today) is "The Jukebox". This is a service (a cooperation between Sony Music and RealNetworks) which allows users to pay for music which is then streamed to a computer.

There are several other benefits over the prior art. Firstly, usage is via a wireless link and therefore inherently mobile. Secondly, only one device is required, as opposed to the Rio, which uses a PC as an intermediate link. Thirdly, the compression format coupled with the high bandwidth will eliminate many of the buffering and time-out problems inherent in "The Jukebox". Finally, since the program material is streamed and not stored, issues of copyright infringement important to the music industry are better addressed.

- ⊙ Explain your solution. Attach any sketches, lab notebook entries, TMs, etc. which help describe and illustrate the solution.

The system involves three parts. Please see attached Fig. 1 for system view of invention.

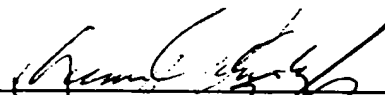
Element 10 is a media server on which resides audio files in compressed form. The best mode compression currently contemplated is the MP3 standard. MP3 provides near CD quality audio at much lower bit rates than are typical for CDs. The media server is capable of streaming the MP3 audio through a network to multiple simultaneous clients.

The media server (there may be multiple linked or unlinked servers) has a connection 20, which links to element 40, the wireless network. One network contemplated is based on a wideband CDMA topology currently under development by Lucent Technologies for NTT DoCoMo of Japan. This infrastructure will have the ability for a user to send and receive information at speeds in excess of 384 kbps. One aspect of the network is encryption, which will allow for secure financial transactions. However, several other wireless platforms could be used instead. The list includes, but is not limited to, UMTS (Universal Mobile Telecommunications System), LMDS (Local Multipoint Distribution System), GSM, and even satellite based systems, such as the Teledesic network.

The network will connect wirelessly, via channel 60, to an end device. This device, element 80, is the Wireless Personal Stereo Jukebox. The end device has the ability to decode the streamed, compressed data and play it back to the user in real time.

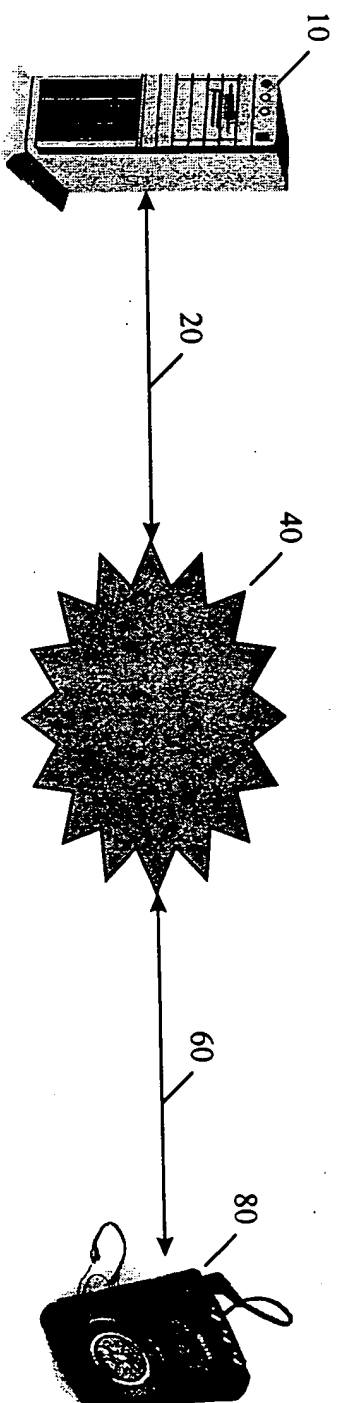
Figure 2 delineates the client device. Part 82 is a microcontroller. It receives input from the user by part 86, the various buttons, dials, soft keys, jog shuttles etc... It displays information to the user via element 84, the visual display. It plays music or other audio data through the audio output jack, part 88. Program memory, including the MP3 decoder, is stored in part 92, a non-volatile memory. MP3 music or other data, which may be erased and recorded over, is stored in the data storage memory, 90. The link to the network is through the transceiver, 94. An antenna, 96, is connected to the transceiver and physically sends and receives data. A battery, 98, provides power to the device through elements 82 and 94.


Principal Inventor


Second Inventor


Dept. Head of Principal Inventor/Date


John A. Marinho, Technology Director/Date
Wireless Standards Development and Industry Relations



Media Server

- Streaming audio
- Manage multiple streams
- MP3 encoder

Network

- Secure transactions
- Intelligent bandwidth usage

End Device

- MP3 decoder
- Streaming and stored content
- Link to PC (optional)
- High speed wireless link

Fig. 1 Wireless Personal Stereo Jukebox

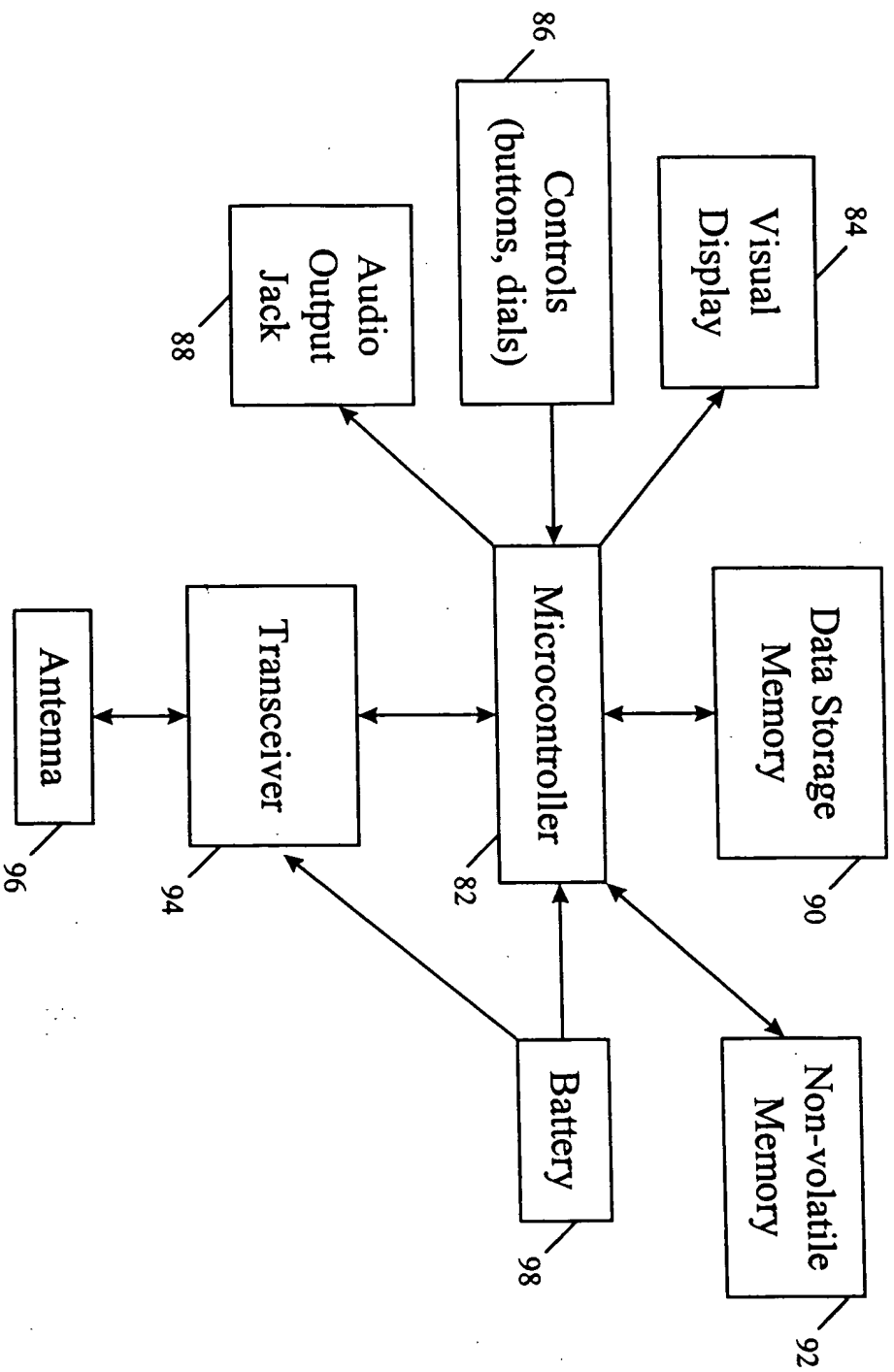


Fig. 2 Client Device

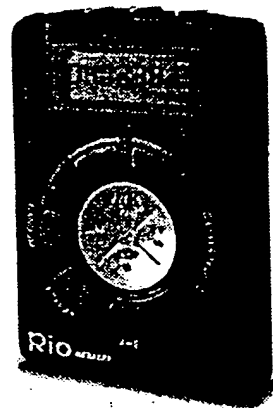
Mr. Barksdale did not back down either. "The browser itself is not a part of Windows," he insisted. "But it is called into play by Windows when browser functions are needed."

JOEL BRINKLEY

Maker of Music Player Awaits Judge's Decision

Diamond Multimedia Systems is waiting on a judge's decision, expected today, to learn whether it can bring its latest invention to market in time for holiday shoppers.

That invention, called the Rio, is a portable gadget smaller than a Sony Walkman and weighing only a few ounces that can store music in digital form and play it back through headphones. The company had hoped to start selling the device in early November for about \$200.



The Rio

But on Oct. 16, Federal District Judge Audrey B. Collins in Los Angeles issued a 10-day restraining order, prohibiting the company from producing the Rio. Diamond officials are to be back in court today to hear wheth-

er Judge Collins has decided to make the injunction permanent or lift it.

The Recording Industry Association of America, the powerful trade group, filed a complaint against Diamond on Oct. 9, contending that the Rio would encourage people to download pirated music stored on the Internet, instead of buying compact disks.

Users of Rio first download songs from any music Web site and store them on their hard drives. They then attach the Rio to their computers using a cable, allowing them to transfer as much as an hour's worth of music to the device. The music is stored in the MP3 programming format, providing near-CD quality sound.

The case may rest on Judge Collins's interpretation of the 1992 Audio Home Recording Act, which is intended to protect musicians and music companies from piracy and copyright violation involving digital home audio equipment. The association says that the Rio is in clear violation; Diamond contends that the device is not covered by the act because it specifically exempts computer equipment.

The association wants Diamond Multimedia to incorporate security technology into the Rio that would prevent users from storing illegal copies of music, but Diamond executives argue that the company is not legally required to do so.

"Piracy is a bad thing and needs to be controlled, but you don't control it through the device," said Ken Wirt, vice president of corporate marketing at Diamond, which is based in San Jose, Calif.

The outcome may come down to whether Judge Collins finds that the Rio is a computer device. If she does, she may remove the injunction, perhaps setting a court date for sometime in 1999.

LAURIE J. FLYNN

NET JUKEBOX: Sony Music and RealNetworks unveiled the first major-label, pay-per-listen jukebox on the Internet. Called The Jukebox on Sony Music's Web site, the service lets users browse for titles and listen to them through RealNetworks' streaming audio player. Ten songs cost \$2.50; 22 cost \$5.00; 50 cost \$10. Listeners can find the new feature at www.sonymusic.com/jukebox.